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CLARIFYING THE CITIZENSHIP STATUS OF THE MEMBERS OF THE TEXAS BAND OF KICKAPOO INDIANS; PROVIDING FOR A RESERVATION FOR THE TEXAS BAND OF KICKAPOO; PROVIDING TO MEMBERS OF THE TEXAS BAND OF KICKAPOO THOSE SERVICES AND BENEFITS FURNISHED TO AMERICAN INDIAN TRIBES AND INDIVIDUALS; AND FOR OTHER PURPOSES

SEPTEMBER 23, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 4496]

[Including the cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 4496) to clarify the citizenship status of the members of the Texas Band of Kickapoo Indians; to provide for a reservation for the Texas Band of Kickapoo; to provide to members of the Texas Band of Kickapoo those services and benefits furnished to American Indian tribes and individuals; and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows: Page 1, line 3, strike all after the enacting clause and insert the following in lieu thereof:

That this Act may be cited as the "Texas Band of Kickapoo Act".

SEC. 2. CONGRESSIONAL FINDINGS. (a) Congress finds that the Texas Band of Kickapoo Indians is a subgroup of the Kickapoo Tribe of Oklahoma that was forced to migrate from its ancestral lands to Texas and Mexico; That although most members of the Band meet the requirements of U.S. citizenship, some of them cannot prove that they do; That although the Band is located in Texas, it does not own any land there and as a result, Band members have been denied federal services provided to other Indians; That the members of the Band face serious health problems; and That because they are tri-cultural, they have unique educational needs.

(b) Congress therefore declares that it is appropriate to grant federal recognition to the Band, to clarify the right of the members of the Band to cross the United States-Mexico border, to authorize the provisions of federal services, and to provide for the establishment of trust lands for the members of the Texas Band of Kickapoo Indians.

SEC. 3. DEFINITIONS. For the purposes of this Act—

(a) "Band" means the Texas Band of Kickapoo Indians, a subdivision of the Kickapoo Tribe of Oklahoma;

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- (b) "Tribe" means the Kickapoo Tribe of Oklahoma; and
 (c) "Secretary" means the Secretary of the Interior.

SEC. 4. (a) Within six months after the passage of this Act and after consultation with the Kickapoo Tribe of Oklahoma, the Secretary shall compile and maintain a roll of the duly enrolled members of Kickapoo blood of the Oklahoma Tribe who comprise the membership of the Texas Band of Kickapoo Indians.

(b) For a period of five years after enactment of this Act, any member of the Band, whose name appears on the roll compiled and maintained by the Secretary pursuant to subsection (a) of this section, may at his option apply for United States citizenship, and, upon such application, shall be granted such citizenship. Thereafter, non-citizen members of the Band may acquire United States citizenship only as otherwise provided by law.

(c) All members of the Texas Band shall be entitled to pass and repass the United States-Mexico border, to work and live in the United States, and be free of restrictions imposed on aliens by immigration laws.

SEC. 5. (a) The Secretary is directed to accept in trust, no more than 100 acres of land in Maverick County, Texas, offered for the benefit of the Band and with the approval of the Tribe. Thereafter, the Secretary is authorized to accept any additional lands in Maverick County for the benefit of the Band pursuant to the provisions of the Act of June 18, 1934 (48 Stat. 984) which Act is hereby made applicable to the Band. The Band shall further have the right to organize pursuant to section 16 of that Act if it so elects.

(b) The State of Texas shall have jurisdiction over civil causes of action and criminal offenses arising on the Band's trust lands in accordance with section 1360 of title 28 and section 1162 of title 18. The provisions of the Act of April 11, 1968 (82 Stat. 79) shall be available to the State of Texas.

SEC. 6. The Band and its members shall be eligible for all services and benefits available to tribes recognized by the Secretary as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. Notwithstanding any other provision of law authorizing such services or benefits, the Band and its members in Maverick County, Texas, shall be eligible for such Federal services without regard to the existence of a reservation for the Band or the residence of members of the Band on or near a reservation. In the delivery of such services, the Secretary and Head of each Department and Agency administering programs for the benefit of Indians, shall consult and cooperate, including but not limited to joint funding agreements, with appropriate Mexican officials to the greatest extent possible so that the provision of such services shall meet the special tri-cultural needs of the Band and its members.

Amend the Title so as to read:

To grant Federal recognition to the Texas Band of Kickapoo Indians; to clarify the status of the members of the Band; to provide trust lands to the Band, and for other purposes.

The purpose of H.R. 4496 is to clarify the citizenship of the members of the Texas Band of Kickapoo Indians, to grant federal recognition to the Band and provide its members with trust lands. It is also the purpose of the bill to allow the members of the Band to benefit from all services that the United States makes available to other American Indians because of their status as Indians.

BACKGROUND

The Kickapoo Indians are an Algonquin-speaking people who once lived in present day Wisconsin and Illinois. The 17th, 18th and 19th centuries were marked by foreign invasions into the tribal heartland by the French, British, and finally, the Americans. The Kickapoos refused to submit to outside cultures as they engaged in a protracted military effort to resist the advancing tide of settlement. Ultimately, the Kickapoos acceded and were forced to relinquish their homelands near the Great Lakes region, totalling some 13,000,000 acres, for

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minimal payments in a series of federal treaties signed in 1803, 1809, 1816 and 1819.

The 1819 treaty promised a permanent and substantial homeland in Missouri, but the forced removal was resisted by two bands of the Kickapoo. One band of the Kickapoo did remove to the Missouri lands, then it was pushed further west to Kansas as a result of an 1832 treaty.

Another band eventually went south to Texas, in the vicinity of Eagle Pass. Complex hostilities developed and the Kickapoo sided at various times with the United States, the Republic of Texas, and Mexico. Finally, due largely to conflicts with non-Indian residents of Texas, the band migrated still further south, below the United States-Mexican border. In the mid-19th century this band negotiated an agreement with Mexico for a land base and hunting grounds at Nacimiento, which is located near present day Musquiz, Coahuila.

In 1883, a reservation in Oklahoma consisting of approximately 200,000 acres was set apart for the permanent use and occupation of the Kickapoo Indians. Although two-thirds of the tribe opposed it, the Congress in 1863 enacted an allotment act which opened up surplus tribal lands for settlement. The surplus lands which were opened up led to a major land rush in 1895, in which the Kickapoo lost 90 percent of all of the tribal land.

The break-up of the reservation caused many Oklahoma Kickapoo to leave Oklahoma and join the band in Mexico. A few years later, after the government had lifted restrictions on the remaining Kickapoo allotments, many of the Kickapoo in Mexico were swindled out of their Oklahoma land.

During the early 20th century, the Kickapoo kept their tribal ties alive in spite of being spread out through Mexico, Oklahoma, and Kansas—the communities visited back and forth and a considerable amount of intermarriage occurred among the bands.

The Mexican Kickapoo continued to live year-round at Nacimiento during the first several decades of the 20th century. Beginning in the 1940's, however, the Kickapoo were forced again to migrate north to Eagle Pass, Texas, because Nacimiento was no longer capable of providing them with a viable homeland.

Since World War II, the Texas Band of Kickapoo has resided for the greater part of the year in Eagle Pass, Texas. They use their land at Nacimiento primarily for religious ceremonies. Eagle Pass itself has religious significance to the Kickapoo because several tribal burial sites are located in that area. In the summer months, many of the Kickapoo are migrant workers; because of the lack of jobs in Eagle Pass, they travel to northern states in order to follow the harvests.

In spite of several forced migrations totalling thousands of miles, Kickapoo culture and traditions have undergone remarkably little change over the past two centuries. All members of the Texas Band speak their native tongue. Most of these Kickapoo are monolingual, although some speak broken Spanish or English.

The Kickapoo are a profoundly religious people. Their native religion, practiced universally among members of the Texas band, is based upon a belief in Kitzbiat, the Great Mystery and the Kickapoo hold many religious ceremonies throughout the year.

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The Texas Band of Kickapoo Indians has been acknowledged by noted historians and anthropologists to be perhaps the most culturally conservative of all American Indian tribes. Yet they exist today in a state of limbo and squalor in Eagle Pass, Texas. Practically all of them are enrolled members of the Kickapoo Tribe of Oklahoma and most of them are entitled to U.S. citizenship either by birth or because one or more parent is so entitled. However, their migratory lifestyle and failure to register children at birth has resulted in an unclear citizenship status in both countries for most members. This has caused tribal members undue hardship when crossing and re-crossing the border and many have been denied citizenship in both the United States and Mexico. Today the Texas Band of Kickapoo has no land base in the United States and its members presently reside as squatters on land owned by the City of Eagle Pass.

At their village beneath the International Bridge, the approximately 600 tribal members reside in cardboard houses while sharing one outdoor toilet and one water faucet. Jobs are few and virtually all members live below the poverty level. The chief source of employment is migrant labor in northern states during the summer months.

Diseases are epidemic. In 1978, the Texas Department of Health documented extraordinary medical problems among the Kickapoo. Their report concluded that "we are of the opinion that an imminent threat to public health exists in the Kickapoo community."

Even this tenuous existence in Eagle Pass is in constant jeopardy. Legally, the tribal members are squatters on city-owned land beneath the International Bridge. There appears to be no question that they can be evicted at any time.

Nevertheless, tribal members at Eagle Pass have been denied desperately needed federal health, housing, and other social services available to other Indians who are members of federally-recognized tribes. They have been told that they do not qualify for state assistance because they are not federally acknowledged, and they do not qualify for federal assistance because Eagle Pass, Texas, is not "on or near" a reservation.

SECTION-BY-SECTION ANALYSIS

Section 1 cites this Act as the "Texas Band of Kickapoo Act".

Section 2 contains the Congressional findings and the Congressional declaration of policy to grant federal recognition to the Texas Band of Kickapoo, provide the Band with trust lands and provide federal services to the members of the Band.

Section 3 defines the Texas Band of Kickapoo as a subdivision of the Kickapoo Tribe of Oklahoma.

Section 4(a) directs the Secretary within six months after passage of this Act to compile and maintain a roll of the duly enrolled members of Kickapoo blood of the Kickapoo Tribe of Oklahoma who comprise the membership of the Texas Band of Kickapoo Indians. At this point, neither the BIA nor the tribe maintains a separate listing for the Band members; rather, all members of the Kickapoo Tribe of Oklahoma are listed together.

Subsection (b) provides that for a period of five years after passage of this Act, any member of the Band listed on the Roll compiled and maintained by the Secretary, may at his option, apply for and be granted United States citizenship. Thereafter, non-citizen members of

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the Band may acquire United States citizenship only as otherwise provided by law.

The Committee believes that this provision fully complies with the wishes of the Band and the Mexican Government. Presently, the birth and other records concerning Band members are notoriously inaccurate, if they exist at all. Some individual Band members have indicated a strong desire to be acknowledged as United States citizens, while others do not. This provision allows individual Band members a five-year option period in which to automatically be declared a United States citizen without regard to documentation of any kind. The Committee anticipates that after the five-year period, a period in which the Bureau will have been responsible for keeping accurate Band membership records, those Kickapoo then desiring United States citizenship will have more accurate documentation available to them. Thus, the normal procedures for acquiring United States citizenship listed in Title 8 of the United States Code will then be applicable.

Subsection (c) allows all members of the Band to pass and repass the border between the U.S. and Mexico and work and live in the United States and be free of restrictions imposed on aliens by the immigration laws.

The Committee wishes to be very clear that this status of the Band members acknowledges that they have all the rights of citizenship except the right to vote and hold public office.

Section 5.(a) directs the Secretary to accept in trust for the Band, with the approval of the Tribe, not more than 100 acres of land in Maverick County, Texas. Thereafter the Secretary is authorized to accept additional lands in Maverick County for the Band pursuant to the provisions of existing law. The Indian Reorganization Act is made applicable to the Band and the Band is authorized to organize pursuant to Section 16 of this Act if it so elects.

The Committee is informed that private fund-raising activity on behalf of the Band will be sufficient to purchase up to 100 acres of Maverick County acreage for the Band. This section requires approval by the Tribe for the actual acreage taken into trust by the Secretary. The tribe has by formal Resolution K-82-26, dated July 21, 1982, established the "Kickapoo Trust Land Acquisition Committee." This Committee, composed of members of the Tribe, members of the Band, and others, has been authorized full and sole authority to oversee all fund raising activity for land acquisition for the Band, and full and sole authority to make the final and binding decision(s) regarding the actual and land purchase.

Therefore, because the Tribe has formally delegated this responsibility to the Kickapoo Land Acquisition Committee, this Committee expects the Secretary or his designee to negotiate with the Tribal Land Committee to determine precisely which acreage will be taken into trust.

Subsection (b) provides that the State of Texas shall have jurisdiction over all civil causes of action and criminal offenses arising in the Band's trust lands in accordance with Public Law 83-280 (28 U.S.C. § 1360 and 18 U.S.C. § 1162). This provision further makes applicable the provisions of the Act of April 11, 1968. Thus, the State is authorized to arrange for retrocession of jurisdiction back to the United States and the Band at some point in the future if it so desires.

Section 6 provides that the Band and its members in Maverick County, Texas, shall be immediately eligible for all services and benefits available to other federally-recognized Indians and Indian tribes, without regard to the existence of a reservation, or the residence of the Band members on or near a reservation.

The Committee sees this provision as a particularly important one since it may take up to two or more years for the actual acreage in Maverick County to be taken into trust by the Secretary. This is so because the Kickapoo Land Acquisition Committee may require this amount of time for the necessary fund-raising, and for the process of selecting and purchasing the best available location for the trust lands. The Committee record on this bill more than adequately documents the urgent need to provide immediate benefits and services to the Band members in the interim. Therefore, the Committee urges the Secretary and the Director, Indian Health Service, in particular, to act with all possible dispatch to immediately make all services and benefits available to Band members in Eagle Pass, Texas.

Section 6 further provides that in delivering such services, the Secretary and Head of each Department and Agency administering programs for the benefit of Indians shall consult and cooperate with appropriate Mexican officials to the greatest extent possible so that the services shall meet the special tricultural needs of the Band and its members.

COMMITTEE AMENDMENT

The Committee adopted an amendment in the nature of a substitute. After the introduction of the bill and the first set of hearings in October 1982, concerns emerged about the effect of the bill on the Kickapoos in Mexico. As originally drafted, the bill provided for a blanket grant of United States citizenship to the members of the Texas Band. During a meeting held in Mexico between the Kickapoos, Mexican and U.S. officials, the Mexican officials felt that a blanket grant of U.S. citizenship would jeopardize the Kickapoos' rights under Mexican Law. Under the Mexican Constitution, only Mexican citizens are entitled to own land in Mexico. This the Kickapoos continued ownership of the ejido at Nacimiento would have been jeopardized. After further meetings and consultation between all concerned parties, it was agreed to amend the bill so as to provide for a five year period during which, members of the band who so wish to, could apply for U.S. citizenship and be granted such citizenship upon application without having to meet any requirements other than to be a member of the Band duly enrolled in a roll maintained by the Secretary of the Interior pursuant to section 4(a) of the bill.

Another major change from the original bill concerns the acquisition of trust lands for the Texas Band. The original bill, provided for the creation of a reservation in Texas;

The amendment does not, but directs the Secretary to take up to 100 acres in trust for the Band with the approval of the Kickapoo Tribe of Oklahoma. Should this first 100 acres prove not to be sufficient and if the Band is able to find additional lands to be offered to the Secretary on behalf of the Band, the amendment provides for the Secretary to accept such lands pursuant to the provisions of the Act of June 18, 1934 (48 Stat. 948).

The amendment also gives the Band the option of organizing a tribal government under the provisions of the Indian Reorganization Act, 25

U.S.C. § 461 *et seq.* However, no provision of this bill is contingent upon acceptance of this option. It is contemplated that the Band shall have great flexibility in determining its tribal organization, if and when it decides to organize more formally. Thus, for example, the Band may eventually choose to be acknowledged as a separate Kickapoo Tribe, or it may choose to function as a participating unit of the Kickapoo Tribe of Oklahoma. Until the time that the Band elects to organize more formally, its trust lands will be administered by the Secretary and the Secretary shall consult extensively with the members of the Band regarding administration of the trust lands.

COST AND BUDGET ACT COMPLIANCE

H.R. 4496, as amended, does not authorize the appropriation of any funds and its enactment will not result in any additional costs to the United States. The analysis of the Congressional Budget Office, which this Committee adopts as its own, follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 21, 1982.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 4496, the Texas Band of Kickapoo Act, as amended and ordered reported by the House Committee on Interior and Insular Affairs, September 15, 1982.

This bill would grant federal recognition to a band of Indians identified by the bill. Although the bill does not specifically authorize the appropriation of funds, it would make all members of the Texas Band of Kickapoo Indians eligible for all services and benefits available to federally recognized Indian tribes. Thus, while no additional expenditures are mandated by this bill, relevant federal agencies would be required to include members of the Band among those eligible for benefits and may seek additional funds in order to provide such benefits. The bill would make all duly enrolled members of the Texas Band of Kickapoo Indians eligible for these benefits.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

INFLATIONARY IMPACT STATEMENT

Enactment of H.R. 4496 will not result in any inflationary impact.

OVERSIGHT STATEMENT

No oversight activities were undertaken by the Committee and no recommendations were submitted to the Committee pursuant to rule X, clause 2(b)2.

COMMITTEE RECOMMENDATION

By a voice vote, the Committee approved an amendment in the nature of a substitute to H.R. 4496, and the Committee recommends the enactment of H.R. 4496, as amended, by the House.

DEPARTMENTAL REPORT

The Committee had still not received a departmental report at the time of the filing of this report but the Committee notes that the testimony of the Department of the Interior on H.R. 4496, dated August 5, 1982, recommended enactment of the bill if amended. The amendment adopted by the Committee incorporates most of the Department's suggestions contained in that testimony.

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